

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TIMOTHY B. MORGAN,)
)
Plaintiff,)
)
vs.) No. 16 C 3425
)
BANK OF AMERICA, et al.,) Chicago, Illinois
) November 1, 2017
Defendants.) 8:56 A.M.

TRANSCRIPT OF PROCEEDINGS - Status
BEFORE THE HONORABLE THOMAS M. DURKIN

APPEARANCES:

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1 (Proceedings had in open court.)

2 THE CLERK: 16 C 3425, Morgan versus Bank of America.

3 MR. HOWARD: Good morning.

4 THE COURT: Good morning.

5 MR. HOWARD: Bruce Howard for the relator.

6 MR. MICHELS: Good morning, your Honor. Bob Michels,
7 Winston Strawn, on behalf of defendant Wells Fargo.

8 MR. FOUTS: Good morning. Greg Fouts on behalf of the
9 Chase defendants.

10 MS. MOORE: Kelly Moore on behalf of Chase.

11 MR. SINGH: Good morning. Anand Singh and Catherine
12 Stewart, Sidley Austin, on behalf of Bank of America.

13 MR. KANE: Good morning, your Honor. Steve Kane for
14 the Citi defendants.

15 THE COURT: All right. Good morning.

16 I saw that there was a stipulation that you provided
17 regarding a briefing schedule for defendants's motion to
18 dismiss relator's first amended complaint.

19 Are all defendants going to be moving for dismissal?

20 MR. MICHELS: Yes, Judge.

21 THE COURT: Okay. The reason I had you in early
22 though is I wanted to disclose I used to work at Mayer Brown,
23 which represents Citi. I left there five years ago this coming
24 January.

25 The attorneys of record, Debra Bogo-Ernst, Lucia Nale,

1 Michael Bornhorst, and Mr. Kane, who is in the courtroom, I
2 know. I worked with them not too much, but a little bit,
3 Mr. Bornhorst more than the other three, while I was at Mayer
4 Brown.

5 I never worked on Citi matters, as far as I know.
6 Certainly not this case. But I don't know, in 20 years, I
7 possibly did something for Citi, but I frankly don't recall it
8 as I sit here now.

9 But I wanted to disclose that to you because if that
10 causes you or your clients some pause, you should -- I don't
11 view it right now as a matter where I need to recuse myself on
12 my own, but I would not take offense if your client is
13 uncomfortable with it, and you talked it over with him, and,
14 you know, you want to make a motion to recuse, I would consider
15 it at this time.

16 But I wanted to put this on the record because not
17 only -- I do take Mayer Brown cases now because it has almost
18 been five years. I have no financial ties to the firm any
19 more. And -- but certain people at Mayer Brown I am very close
20 personal friends with, and I won't take a case if they were
21 involved in it.

22 Mr. Kane is an acquaintance. I'm certainly friendly
23 with him, but we're not personal friends.

24 MR. HOWARD: Sure.

25 THE COURT: Nor are the other three attorneys from

1 Mayer Brown.

2 So I have made my full disclosure, and you can do with
3 it -- you don't have to respond to it today. But if it gives
4 you any pause, I'm sure whatever -- if I am not on the case,
5 this briefing schedule will apply for any Judge that's on it.

6 MR. HOWARD: I appreciate the disclosure, your Honor.
7 I will talk with my client in this case, who is a special
8 assistant U.S. Attorney. He's knowledgeable, so I think I
9 should -- I need to clear it with him, but I don't anticipate
10 it should be a problem.

11 THE COURT: Who -- oh, Mr. --

12 MR. HOWARD: Morgan.

13 THE COURT: He's a special assistant U.S. attorney?

14 MR. HOWARD: Yes.

15 THE COURT: What is that?

16 MR. HOWARD: He tries cases for the Department of
17 Veterans Affairs. Employment cases. In order to be able to
18 try cases, he has to be a member of the DOJ.

19 THE COURT: I see. All right. Well, I don't know
20 him, but that helps.

21 Mr. Michels and I were in the U.S. Attorney's Office
22 briefly together. I believe, I think, at the tail end of my
23 career there and the beginning of his. But, again, we're
24 acquaintances but not personal friends.

25 MR. HOWARD: Well, it is hard to bring a qui tam case

1 these days without a former AUSA on the other side. But given
2 that we tried to join with the government in getting
3 intervention, we also view them as allies so we have no problem
4 with that either, your Honor.

5 THE COURT: Okay. Well, I'll wait. The ball is in
6 your court. If there is a problem with it, anything I have
7 just related on my disclosure, try and move on it relatively
8 promptly so that the case doesn't get delayed.

9 MR. HOWARD: Sure.

10 THE COURT: All right. But absent anything along
11 those lines, the briefing schedule as part of the stipulation,
12 that's agreed to by all parties, correct?

13 MR. MICHELS: Yes, Judge.

14 THE COURT: All right. I'll simply enter it.

15 MR. HOWARD: Thank you.

16 THE COURT: And we're not going to have any -- looks
17 like the last brief will be filed February 16, 2018.

18 Is there any discovery that's going to take place
19 while the motion to dismiss is pending?

20 MR. HOWARD: No, Judge.

21 THE COURT: Okay. Why don't I have you back, unless
22 you think that it is -- there is a need for it. I don't know
23 when I can rule on this. I haven't seen anything yet.

24 Why don't I have you back in mid March for a status
25 just to make sure we're still on track to -- I can give you

1 some -- possibly at that point either a ruling or some
2 prediction on when a ruling will take place.

3 So a mid March status.

4 THE CLERK: March 15th.

5 MR. MICHELS: Sounds good, Judge.

6 MR. HOWARD: Sounds good.

7 THE COURT: Okay. And if there is a need to come back
8 for any reason before that, just contact my courtroom deputy,
9 she'll set it up for status.

10 MR. HOWARD: Very good.

11 THE COURT: Thank you.

12 (Brief interruption.)

13 THE COURT: Oh, and by the way, I think there was a
14 status set on this last case for November. That's vacated.

15 MR. HOWARD: Thank you, your Honor.

16 THE COURT: Okay.

17 (Which concluded the proceedings:)

18 CERTIFICATE

19 I HEREBY CERTIFY that the foregoing is a true, correct
20 and complete transcript of the proceedings had at the hearing
of the aforementioned cause on the day and date hereof.

21 **/s/ Pamela S. Warren**
22 Official Court Reporter
23 United States District Court
24 Northern District of Illinois
25 Eastern Division

November 6, 2017
Date